

United States Court of Appeals For the First Circuit

No. 16-1569

MATTHEW DAVIS,

Petitioner,

v.

UNITED STATES,

Respondent.

Before

Howard, Chief Judge,
Thompson and Kayatta, Circuit Judges.

JUDGMENT

Entered: July 12, 2017

Petitioner seeks leave to file a second or successive 28 U.S.C. § 2255 motion featuring a challenge, based on Johnson v. United States, 135 S. Ct. 2551 (2015), to the sentencing court's application of certain provisions of the advisory sentencing guidelines. The court entered a "show cause" order instructing petitioner to address the Supreme Court's decision in Beckles v. United States, through which the Court held "that the advisory Sentencing Guidelines are not subject to a vagueness challenge under the Due Process Clause and that § 4B1.2(a)'s residual clause is not void for vagueness." 137 S. Ct. 886, 895 (2017). Petitioner's response to the "show cause" order acknowledges the holding of Beckles and identifies no reason why petitioner's Johnson claim(s) might be viable after Beckles. See 28 U.S.C. § 2255(h) (statutory gatekeeping requirements for second or successive motions); Evans-Garcia v. United States, 744 F.3d 235, 237 (1st Cir. 2014) (required prima facie showing is "a sufficient showing of possible merit to warrant a fuller exploration by the district court"). Accordingly, the application is **DENIED**.¹

¹ "Th[is] . . . denial of an authorization . . . to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari." See 28 U.S.C. § 2244(b)(3)(E).

By the Court:

/s/ Margaret Carter, Clerk

cc: Jessica P. Thrall
Dina Michael Chaitowitz